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MATERIALS FOR AN INTRODUCTION TO STATUTES AND ADMINISTRATIVE LAW

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INTRODUCTION

The major purpose of this course is to introduce statutes and administrative law. The reason for giving it is simply that statutes and administrative agencies are a large element of the contemporary legal order and the work of lawyers. This reason, and the lengthy failure of law schools to respond, are elaborated in the four readings. These readings also suggest the immense range and bulk of statutes and administrative activity. Three full years, let alone one thirty hour course, would not be enough to learn its content (think, for example, of the bulk of economic planning alone), and even if it could be learned, the usefulness of the knowledge alone would be quickly erroded by constant change. Some courses in second and third year deal primarily with some specialized and important corner, for example, taxation and land use controls, but this course does not. It is not designed primarily to require content, or doctrine, to be learned and therefore it does not have much in it that corresponds to the proposition that a mailed revocation of an offer is not effective until it is received, even though a mailed acceptance is effective when it is posted. The emphasis will be the associations between statutes, and the common law and courts, for example, the distinctive functions and limits of statutes contrasted to the common law, the effect of extensive legislation on the functions of the common law and courts, the interpretation of statutes by courts, and the control by courts of administrative agencies. This emphasis reflects the ways in which most lawyers usually deal with statutes, and it enables the course to take some advantage from the dominant and general emphasis in first year on courts and common law, while demonstrating that common law and courts are not the only kind of law and legal institution. The course does not include material about how statutes are made, that is, about the political and legislative processes. This limitation is a product of limitations imposed by large classes, and the needs and traditional expertise and interests of lawyers. Nor does the course include material about how to write statutes. Much of the lawyers' work is writing documents, especially agreements, wills, and corporate constitutions, and writing statutes is not essentially different from writing these kinds of documents. Law schools have either not made a substantial attempt to teach writing (except through the general skills of analysis associated with the case system, and by showing the limits imposed by particular substantive doctrine), or have made occasional and experimental attempts in small groups in second and third years. However, some of the material does invite writing, primarily to help understand the nature of statutes (contrasted to common law) and the job of interpretation.